

Notice of Allowability

Application No.

10/730,360

Examiner

James Alpert

Applicant(s)

BALABON, SAM

Art Unit

3624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Applicant's amendment dated 12/06/2005.
2. ☒ The allowed claim(s) is/are 1,5-7,10,12-21,24,26-27,29-30,32,36-49.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|--|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413), Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

DETAILED ACTION

The following communication is in response to Applicant's amendment filed on 12/06/2005.

Status of Claims

Claims 5-7,20,29,32 are original. Claims 1,10,12-19,21,24,26-27,30 are currently amended. Claims 2-4,8-9,11,22-23,25,28,31,33-35 are cancelled. Claims 36-49 are new. Claims 1,5-7,10,12-21,24,26-27,29-30,32,36-49 are therefore currently pending.

Allowable Subject Matter

Claims 1,5-7,10,12-21,24,26-27,29-30,32,36-49 are allowed, subject to an examiner's amendment described below.

Examiner's Amendment

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee. Authorization for this examiner's amendment was given in a telephone interview with Applicant's representative, Bradley Meier, Registration #44236, conducted on 02/15/2006. Please amend Claim 24 as follows:

Claim 24. The method of claim 18, wherein the activation of the order comprises posting the order on a bulletin board transmitted over a network.

Reasons for Allowance

Applicant's amendments and arguments have been considered, and the rejections under 35 U.S.C. 112 are withdrawn. The closest prior art of record is Maddoff,

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U.S. Patent Application Publication 2001/0044767. Maddoff discloses a type of relative or pegged pricing. However, Maddoff does not consider relative pricing outside of the NBBO. Further, Maddoff does not teach determining an updated market value for updating the distance between an accepted price and market value, and then completing an order only if the difference remains the same or greater, as indicated by Applicant's claims. Thus Claims 1,5-7,10,12-21,24,26-27,29-30,32 are allowed because the best prior art of record, Maddoff, neither discloses or fairly suggests the limitations, in a method of trading below the market, comprising:

Upon acceptance of a buy order, that is a predetermined distance below market value, by a party at a particular price, determining an updated market value of a financial instrument, and

Completing the order only if the accepted price is at least the predetermined distance below the updated market value.

Further, Claims 36-49 are allowed because the best prior art of record, Maddoff, neither discloses or fairly suggests the limitations, in a method of trading above the market, comprising:

Upon acceptance of a sell order, that is a predetermined distance above market value, by a party at a particular price, determining an updated market value of a financial instrument, and

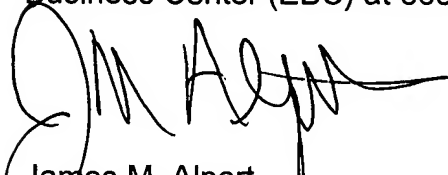
Completing the order only if the accepted price is at least the predetermined distance above the updated market value.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Alpert whose telephone number is (571) 272-6738. The examiner can normally be reached on M-F 9:30-6:00. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on (571) 272-6747. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). Respectfully,



James M. Alpert
February 15, 2006



JAGDISH N. PATEL
PRIMARY EXAMINER